



SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

## United States Patent Application

### COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHOD OF DETECTING MICROORGANISMS IN A SAMPLE.**

The specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

Foreign application(s), if any, claiming priority under 35 U.S.C. § 119:

<u>Application Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>
199 21 281.3	Germany	07/05/1999
199 36 875.9	Germany	05/08/1999

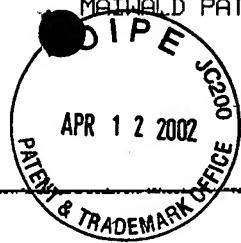
I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application Number</u>	<u>Filing Date</u>	<u>Status</u>
PCT/EP00/03989	May 4, 2000	Published

Attorney Docket No.: 235.017US1  
 Serial No. not assigned  
 Filing Date: not assigned



I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Hnack, John L.	Reg. No. 36,154	Nelson, Albin J.	Reg. No. 28,650
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Billion, Richard E.	Reg. No. 32,836	Jurkovich, Patti J.	Reg. No. 44,813	Parker, J. Kevin	Reg. No. 33,024
Black, David W.	Reg. No. 42,331	Kalis, Janal M.	Reg. No. 37,650	Perdok, Monique M.	Reg. No. 42,989
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Brennan, Thomas F.	Reg. No. 35,075	Kluth, Daniel J.	Reg. No. 32,146	Peterson, David C.	Reg. No. 47,857
Brooks, Edward J., III	Reg. No. 40,925	Lacy, Rodney L.	Reg. No. 41,136	Prout, William F.	Reg. No. 33,995
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Clark, Barbara J.	Reg. No. 38,107	LeMoine, Diana B.	Reg. No. 40,062	Schwegman, Micheal L.	Reg. No. 25,816
Clise, Timothy B.	Reg. No. 40,957	Lundberg, Steven W.	Reg. No. 30,568	Scott, John C.	Reg. No. 38,613
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Frost, Bradley A.	Reg. No. 30,837	McTavish, Hugh E.	Reg. No. P-48,341	Terry, Kathleen R.	Reg. No. 31,884
Johnson, Owen J.	Reg. No. 36,143	Mehrle, Joseph P.	Reg. No. 45,535	Tong, Viet V.	Reg. No. 45,416
Gorrie, Gregory J.	Reg. No. 36,530	Moore, Charles L., Jr.	Reg. No. 33,742	Viksnins, Ann S.	Reg. No. 37,748
Gortych, Joseph E.	Reg. No. 41,791	Mullen, Mark V.	Reg. No. 37,509	Woessner, Warren D.	Reg. No. 30,440
Greaves, John N.	Reg. No. 40,362	Nama, Kash	Reg. No. 44,255		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402

Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of sole inventor:

Jiri Snaildr

Citizenship:

Germany

Residence: 80992 Munich, Germany

Post Office Address:

Dachauer Strasse 148 Emmy - Noether - Str. 2 45

80992 Munich

Germany

Signature:



Date:

21.12.2001

Full Name of inventor:

Residence:

Citizenship:

Post Office Address:

Signature:

Date:

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

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*A copy of this notice **MUST** be returned with the reply.*

  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

O I P E  
S/N 10/008,523  
APR 12 2002  
S C S  
PATENT & TRADEMARK OFFICE  
Applicant:  
Serial No.:  
Filed:  
Title:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Jiri Snaidr  
10/008,523  
November 7, 2001  
METHOD OF DETECTING MICROORGANISMS IN A SAMPLE

Examiner: Unknown  
Group Art Unit: 1645  
Docket: 235.017US1

**COMMUNICATION RE: CORRECTED APPLICATION PAPERS**

Box Missing Parts  
Commissioner for Patents  
Washington, D.C. 20231

In response to the "Notice to File Missing Parts" which indicated "Corrected Papers" additionally required, enclosed is the paper copy of the Sequence Listing (3 pages).

Applicant assumes the application is now in proper order and in condition for examination.  
Please direct any inquiries to the undersigned attorney at (612) 349-9587.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JIRI SNAIDR

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 349-9587

Date

4/8/02

By

Timothy B. Clise  
Reg. No. 40,857  
TBC:CMG:eml

**SMALL BUSINESS****VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 C.F.R. 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

a)  the owner of the small business concern identified below:

b)  an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Vermicon AGADDRESS OF CONCERN: Emmy-Noether-Str. 2 *7S*  
Bachauer Strasse 148  
80992 Munich GERMANY

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 37 C.F.R. 121.3-18, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled METHOD OF DETECTING MICROORGANISMS IN A SAMPLE by inventor Jiri Snaidr described in application serial no. 10/008,523 filed November 7, 2001.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averting to their status as small entities. (37 C.F.R. 1.27)

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

 INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

NAME Jiri SnaidrTITLE CEOADDRESS Emmy-Noether-Str. 2, 80992 Munich, GermanySIGNATURE *JS*DATE 18.03.2002Jiri SnaidrSCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
Professional Association